

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EDWARDO WALCOTTE
TDCJ-CID #10048785
v.
OFFICER WICKS

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C.A. NO. C-08-323

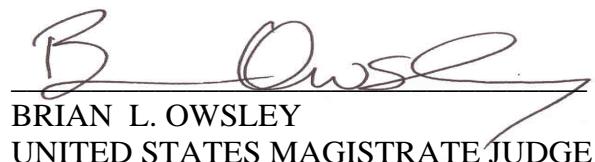
ORDER GRANTING MOTION TO DEPOSE PLAINTIFF

Plaintiff is currently incarcerated at the Nueces County Jail in Corpus Christi, Texas. Proceeding pro se, he filed a civil rights action pursuant to 42 U.S.C. § 1983. (D.E. 1). Pending is defendant's motion for leave to depose plaintiff. (D.E. 28). Specifically, he seeks leave to depose plaintiff regarding his allegations that defendant used excessive force in handcuffing him.

The Federal Rules of Civil Procedure require that any party seeking to depose by written questions someone "confined in prison" must obtain leave of the court. Fed. R. Civ. P. 30(a)(2)(B); accord Whitehurst v. United States, 231 F.R.D. 500, 501 (S.D. Tex. 2005). Defendant's motion is motivated in part based on plaintiff's failure to respond to written discovery. (D.E. 28, at 1). Moreover, plaintiff would be hard pressed to object to his own deposition being taken in an action he has filed.

Accordingly, defendant's motion for leave to depose plaintiff, (D.E. 28), is hereby GRANTED .

ORDERED this 22nd day of January 2009.


BRIAN L. OWSLEY
UNITED STATES MAGISTRATE JUDGE